

VOTER REFERENDUM AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill addresses local referenda.

Highlighted Provisions:

This bill:

- clarifies the definition of a land use law; and
- modifies the elections at which a referendum relating to legislative action taken after April 15 may appear on the ballot.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-7-101, as last amended by Laws of Utah 2019, Chapters 136, 203, and 210

20A-7-607, as last amended by Laws of Utah 2020, Chapter 31

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **20A-7-101** is amended to read:

20A-7-101. Definitions.

As used in this chapter:

(1) "Budget officer" means:

- (a) for a county, the person designated as budget officer in Section 17-19a-203;
- (b) for a city, the person designated as budget officer in Subsection 10-6-106(4);
- (c) for a town, the town council; or
- (d) for a metro township, the person described in Subsection (1)(a) for the county in

which the metro township is located.

(2) "Certified" means that the county clerk has acknowledged a signature as being the

signature of a registered voter.

(3) "Circulation" means the process of submitting an initiative or referendum petition to legal voters for their signature.

(4) "Eligible voter" means a legal voter who resides in the jurisdiction of the county, city, or town that is holding an election on a ballot proposition.

(5) "Final fiscal impact statement" means a financial statement prepared after voters approve an initiative that contains the information required by Subsection 20A-7-202.5(2) or 20A-7-502.5(2).

(6) "Initial fiscal impact estimate" means:

(a) a financial statement prepared under Section 20A-7-202.5 after the filing of an application for an initiative petition; or

(b) a financial and legal statement prepared under Section 20A-7-502.5 or 20A-7-602.5 for an initiative or referendum petition.

(7) "Initiative" means a new law proposed for adoption by the public as provided in this chapter.

(8) "Initiative packet" means a copy of the initiative petition, a copy of the proposed law, and the signature sheets, all of which have been bound together as a unit.

(9) (a) "Land use law" means a law of general applicability, enacted based on the weighing of broad, competing policy considerations, that relates to the use of land, including land use regulation, a general plan, a land use development code, an annexation ordinance, the rezoning of a single property or multiple properties, or a comprehensive zoning ordinance or resolution.

(b) "Land use law" does not include a land use decision, as defined in Section 10-9a-103 or 17-27a-103.

(10) "Legal signatures" means the number of signatures of legal voters that:

(a) meet the numerical requirements of this chapter; and

(b) have been obtained, certified, and verified as provided in this chapter.

(11) "Legal voter" means a person who:

(a) is registered to vote; or

(b) becomes registered to vote before the county clerk certifies the signatures on an initiative or referendum petition.

(12) "Legally referable to voters" means:

(a) for a proposed local initiative, that the proposed local initiative is legally referable to voters under Section 20A-7-502.7; or

(b) for a proposed local referendum, that the proposed local referendum is legally referable to voters under Section 20A-7-602.7.

(13) "Local attorney" means the county attorney, city attorney, or town attorney in whose jurisdiction a local initiative or referendum petition is circulated.

(14) "Local clerk" means the county clerk, city recorder, or town clerk in whose jurisdiction a local initiative or referendum petition is circulated.

(15) ~~[(a)]~~ "Local law" includes:

(i) an ordinance;

(ii) a resolution;

(iii) a land use law; or

(iv) other legislative action of a local legislative body.

~~[(b) "Local law" does not include an individual property zoning decision.]~~

(16) "Local legislative body" means the legislative body of a county, city, town, or metro township.

(17) "Local obligation law" means a local law passed by the local legislative body regarding a bond that was approved by a majority of qualified voters in an election.

(18) "Local tax law" means a law, passed by a political subdivision with an annual or biannual calendar fiscal year, that increases a tax or imposes a new tax.

(19) "Measure" means a proposed constitutional amendment, an initiative, or referendum.

(20) "Referendum" means a process by which a law passed by the Legislature or by a local legislative body is submitted or referred to the voters for their approval or rejection.

(21) "Referendum packet" means a copy of the referendum petition, a copy of the law being submitted or referred to the voters for their approval or rejection, and the signature sheets, all of which have been bound together as a unit.

(22) (a) "Signature" means a holographic signature.

(b) "Signature" does not mean an electronic signature.

(23) "Signature sheets" means sheets in the form required by this chapter that are used

to collect signatures in support of an initiative or referendum.

(24) "Special local ballot proposition" means a local ballot proposition that is not a standard local ballot proposition.

(25) "Sponsors" means the legal voters who support the initiative or referendum and who sign the application for petition copies.

(26) (a) "Standard local ballot proposition" means a local ballot proposition for an initiative or a referendum.

(b) "Standard local ballot proposition" does not include a property tax referendum described in Section 20A-7-613.

(27) "Tax percentage difference" means the difference between the tax rate proposed by an initiative or an initiative petition and the current tax rate.

(28) "Tax percentage increase" means a number calculated by dividing the tax percentage difference by the current tax rate and rounding the result to the nearest thousandth.

(29) "Verified" means acknowledged by the person circulating the petition as required in Sections 20A-7-205 and 20A-7-305.

Section 2. Section **20A-7-607** is amended to read:

20A-7-607. Evaluation by the local clerk -- Determination of election for vote on referendum.

(1) When each referendum packet is received from a county clerk, the local clerk shall check off from the local clerk's record the number of each referendum packet filed.

(2) Within two days after the day on which the local clerk receives each referendum packet from a county clerk, the local clerk shall:

(a) count the number of the names certified by the county clerks that appear on each verified signature sheet;

(b) if the total number of certified names from each verified signature sheet equals or exceeds the number of names required by Section 20A-7-601 and the requirements of this part are met, mark upon the front of the petition the word "sufficient";

(c) if the total number of certified names from each verified signature sheet does not equal or exceed the number of names required by Section 20A-7-601 or a requirement of this part is not met, mark upon the front of the petition the word "insufficient"; and

(d) notify any one of the sponsors of the local clerk's finding.

(3) If the local clerk finds the total number of certified signatures from each verified signature sheet to be insufficient, any sponsor may file a written demand with the local clerk for a recount of the signatures appearing on the referendum petition in the presence of any sponsor.

(4) (a) If the local clerk refuses to accept and file any referendum petition, any voter may apply to a court for an extraordinary writ to compel the local clerk to do so within 10 days after the refusal.

(b) If a court determines that the referendum petition is legally sufficient, the local clerk shall file the petition, with a verified copy of the judgment attached to the petition, as of the date on which it was originally offered for filing in the local clerk's office.

(c) If a court determines that any petition filed is not legally sufficient, the court may enjoin the local clerk and all other officers from:

(i) certifying or printing the ballot title and numbers of that measure on the official ballot for the next election; or

(ii) as it relates to a local tax law that is conducted entirely by mail, certifying, printing, or mailing the ballot title and numbers of that measure under Section 20A-7-609.5.

(5) A petition determined to be sufficient in accordance with this section is qualified for the ballot.

(6) (a) ~~[H]~~ Except as provided in Subsection (6)(b) or (c), if a referendum relates to legislative action taken after April 15, the election officer may not place the referendum on an election ballot until a primary election, a general election, or a special election the following year.

(b) The election officer may place a referendum described in Subsection (6)(a) on the ballot for the general election held during the year that the legislative action was taken if the following agree, in writing, to place the referendum on that ballot:

(i) the referendum sponsors;

(ii) the local clerk; and

(iii) the attorney for the county or municipality that took the legislative action.

~~[(b)]~~ (c) For a referendum on a land use law, if, before August 30, the local clerk or a court determines that the total number of certified names equals or exceeds the number of signatures required in Section 20A-7-601, the election officer shall place the referendum on the

election ballot for the next general election.